



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BUREAU OF PARKS & LANDS
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333

AMANDA E. BEAL
COMMISSIONER

TESTIMONY BEFORE THE JOINT COMMITTEE ON
AGRICULTURE, CONSERVATION, AND FORESTRY

IN OPPOSITION TO LD 1893

“AN ACT TO REQUIRE A LEASE OF PUBLIC LANDS TO BE BASED ON REASONABLE
MARKET VALUE AND TO REQUIRE APPROVAL OF SUCH LEASES FOR
COMMERCIAL PURPOSES”

Senator Dill, Representative Hickman, and members of the Committee, my name is Andy Cutko and I am the Director of the Bureau of Parks and Lands for the Department of Agriculture, Conservation and Forestry. I am testifying in opposition to LD 1893. While the Bureau shares an interest in ensuring fairness and transparency in granting leases, there are a number of components of the bill that are unclear or problematic and could impose unnecessary burdens on the Bureau.

First, the terms ‘reasonable market value’ and ‘fair market value’ appear to be used interchangeably, and both may be different from ‘appraised value.’ Fair market value is a hypothetical figure that may not necessarily be known until a property is sold. Appraised value, on the other hand, is determined by a qualified real estate professional using a standardized approach. Under the Bureau’s current system, the Bureau may require an appraisal for larger leases. For smaller leases, including camp lots, sporting camps, and campgrounds, the lease value is determined, by statute, as a fixed percentage of the town’s or the state’s assessed value. If this bill moves forward, it is important to clarify the approach taken to value each of these types of leases.

Second, the term ‘commercial’ needs to be defined. Leases that may be considered ‘commercial’ include sporting camps, communication towers, utility corridors, campgrounds, and other uses, and many of these are addressed in different sections of the existing statute, Title 12, M.R.S.A. 1852. The Bureau currently has more than 30 such commercial leases in place. Is the intent of the Legislature to review and approve each of these types of leases moving forward, as well as amendments, and/or renewals to these leases? Some of these leases and amendments may be of minor impact, such as leasing a small parcel to place a utility guy wire or a short section of underground utility wire.

Third, Section 3, requiring retroactive review of leases to 2014, presents a number of challenges. The language in this section does not specify commercial leases and therefore appears to apply to *all* BPL leases. Is the intent of the bill to review the value of *all* leases that have been approved or renewed since 2014, and/or to subject them all to legislative approval? For context, the Bureau has renewed or amended over 300 leases since 2014, and the Bureau has multiple full-time staff that work on lease issues year-round. In addition, if the intent of the bill is to subject all leases dating back to 2014 to

ANDREW R. CUTKO, DIRECTOR
BUREAU OF PARKS & LANDS
18 ELKINS LANE, HARLOW BUILDING



PHONE: (207) 287-3821
FAX: (207) 287-6170
WWW.MAINE.GOV/DACE/

legislative approval, I would strongly encourage the Committee to consult with the Attorney General's office regarding legal implications. If prior leases are found to be inconsistent with this proposed bill, subsequent action taken by the legislature to revoke these leases could expose the state to breach of contract lawsuits.

If the Committee is interested, I will be glad to discuss alternative mechanisms to increase the transparency of the Bureau's lease process during the work session. Thank you for your time, and I'll be glad to address any questions.